

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 22 2008

IN RE APPLICATION OF: James SCHROEDER

APP. NO.: 10/553701

ATTORNEY DOCKET NO.:
P-71804-1

FILED: October 17, 2005

EXAMINER: Jacob K. Ackun

FOR: Holder to Facilitate the Signing and Storage of Collectible Baseballs and Other Sports Memorabilia

**PETITION TO EXPEDITE PETITION TO WITHDRAW HOLDING OF
ABANDONMENT PURSUANT TO 37 CFR 1.10(e)**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**INITIAL FILING BY FACSIMILE, 571-273-8300
HARD COPY OF PETITION WITH ATTACHED COPIES AND CHECK VIA US
EXPRESS MAIL**

SIR:

The Applicant in the above-referenced application hereby submits this Petition to Expedite the Applicant's Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.10(e) in response to the Office's Notice of Abandonment for the above-referenced application mailed February 19, 2008 and received February 21, 2008.

STATEMENT OF FACTS

The Office sent the Applicant a Notice of Allowance and Fee(s) Due dated September 27, 2007. The fees due were \$700 for Issue Fee and \$300 for Publication Fee. Included with this Notice was a Determination of Patent Term Adjustment of 284 days, and a Notice of Allowability which. A true copy of this Notice of Allowance is herein attached.

The Applicant submitted a check for \$1000 under the Applicant's representative's Washington Mutual Pooled Client account, Check #104, with the Fee Transmittal, via US Postal Service Express Mail, Express Mail Item #EB715003197US, on October 15, 2007 at 4:12 p.m. A true copy of the Receipt for this Express Mail posting is herein attached. The Applicant does not possess a copy of the check or the Fee Transmittal. The Office received the Express Mail package on October 16, 2007 at 9:12 a.m., and the package was signed for by Sidney R. Dyer of the Office. A true copy of the information of the Office's receipt of the Express Mail package is herein attached. As the Applicant believed that the submittal of the requisite fees by Express Mail was sufficient, the Applicant did not submit a postcard receipt to be returned by the Office.

On November 7, 2007, the Office mailed the Applicant a Notice to File Corrected Application Papers (Notice of Allowance Mailed). The Applicant mailed the requested corrected papers on November 11, 2007. The submission of these corrected papers is not at issue.

In early January 2008, the Applicant's representative placed a telephone call to the Examiner of the above-referenced application, Jacob K. Ackun, requesting notification of when the application would receive a date of publication, as the Applicant seeks to enter litigation to stop infringement of his allowed patentable invention. Mr. Ackun returned the telephone call some days later and did not signify during his talk with the representative that the Office did not receive the Issue Fee, Publication Fee, or Fee Transmittal.

On February 19, 2008, nearly eight weeks after the deadline for the receipt of the Issue Fee and Publication Fee elapsed on December 27, 2007, the Office mailed the Applicant a Notice of Abandonment, citing that the issue fee and publication fee has not been received. A true copy of this Notice is herein attached.

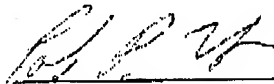
The Applicant respectfully requests that the Director expedite the resolution of the Applicant's Petition to withdraw the Holding of Abandonment for the above-referenced application pursuant to 37 CFR 1.10(e). The invention of the above-referenced application is an implement designed to aid baseballs players in autographing baseballs while on the field of play. Major League Baseball has expressed interest in licensing or purchasing the patent on this invention from the Applicant. To wait three to six months for a resolution for the Petition, then wait at least another five weeks for the publication of the patent should the Petition be granted, is very detrimental commercially to the Applicant. Furthermore, the Applicant has a competitor whom the Applicant believes is infringing upon this invention, and the Applicant eagerly awaits the grant of a patent number to enter into litigation to estop this competitor from selling the allegedly-infringing product. Any further delay the Applicant meets in this process will only weaken the Applicant's market position, and should the Office grant the Petition, thereby admitting that the Applicant did in fact submit all required fees on time, it would be unjust to subject the Applicant to such commercial detriment for no due reason.

For all the aforementioned reasons, then, the Applicant respectfully requests that his Petition to Expedite the Petition to Withdraw the Holding of Abandonment of the above-referenced application be granted under 37 CFR 1.182. Please note that the Applicant submits separately a Petition for Expedited Action on this Petition to Withdraw Holding of Abandonment under 37 CFR 1.182. Other than the submitted fees for the Issue Fee and Publication Fee, however, no fee is believed due for this Petition.

Should there be any further questions, this Office is respectfully requested to telephone the Applicant's undersigned representative at 973-595-6625 to arrange for a personal or telephonic interview in an effort to resolve any such questions.

Respectfully submitted,

Dated: February 22, 2008



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Attorney for Applicant